

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MELVIN WHITE,	:	CIVIL ACTION
	:	
Petitioner	:	
	:	
v.	:	
	:	
ROBERT D. SHANNON, et al.,	:	
	:	
Respondents	:	NO. 01-4298

MEMORANDUM and ORDER

Norma L. Shapiro

March 10, 2004

On July 24, 2003, the court dismissed Melvin White's ("White") petition for a writ of habeas corpus. The court concluded the petition was time-barred because it was filed beyond the one-year statute of limitations under 28 U.S.C. § 2244(d). White filed a timely motion for reconsideration pursuant to Rule 59(e) of the Federal Rules of Civil Procedure.

STANDARD OF REVIEW

The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence. Harsco Corp. V. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985). A court may grant a motion if the movant shows one of the following: (1) an intervening change of controlling law; (2) new evidence that was unavailable when the court issued its order; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice. Max's Seafood Café v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999). "Because federal courts have a

strong interest in the finality of judgments, motions for reconsideration should be granted sparingly." Continental Casualty Co. v. Diversified Indus. Inc., 884 F.Supp. 937, 943 (E.D.Pa. 1995). A motion for consideration is not appropriate for rearguing issues a court has already considered and decided.

White argues that the court should have considered his "actual innocence" and used equitable tolling to consider his action timely. As evidence that he was actually innocent of the crime of first degree murder, White lists the names of seven witnesses who would have testified, had they been called at trial, that he exhibited bizarre behavior leading up to the time of the murder. White asks the court to make a logical leap from this list of witnesses to his assertion that he did not have the specific intent to commit the crime of first degree murder. However, he offers no reliable evidence of his factual innocence of the crime. The list of witnesses is far too little evidence to conclude that White is actually innocent of the crime of first degree murder. See Hull v. Freeman, 991 F.2d 86, 91 n.3 (3d Cir. 1993)(where petitioner has no colorable claim that he did not commit the crime, miscarriage of justice exception cannot be satisfied).

White next asks the court to reconsider whether the state's time bar ruling was adequate. This issue was fully discussed in the memorandum and order denying White's petition; White offers

nothing new to consider, and the court declines to discuss this issue further.

Finally, White asks the court to reconsider issuing a certificate of appealability. Here again, he raises no new issues, evidence or changes in the law. The court will not reconsider its decision.

CONCLUSION

Because White cannot show that there has been an intervening change in the law since the order denying his *habeas* petition, there is no newly discovered evidence and he can point to no clear error of law or fact, his motion for reconsideration will be **DENIED**.

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ORDER

AND NOW, this ____ day of March 2004, upon consideration of Petitioner's Motion for Reconsideration (paper no. 32), for the reasons stated in the attached memorandum, the motion is **DENIED**.

Norma L. Shapiro, S.J.